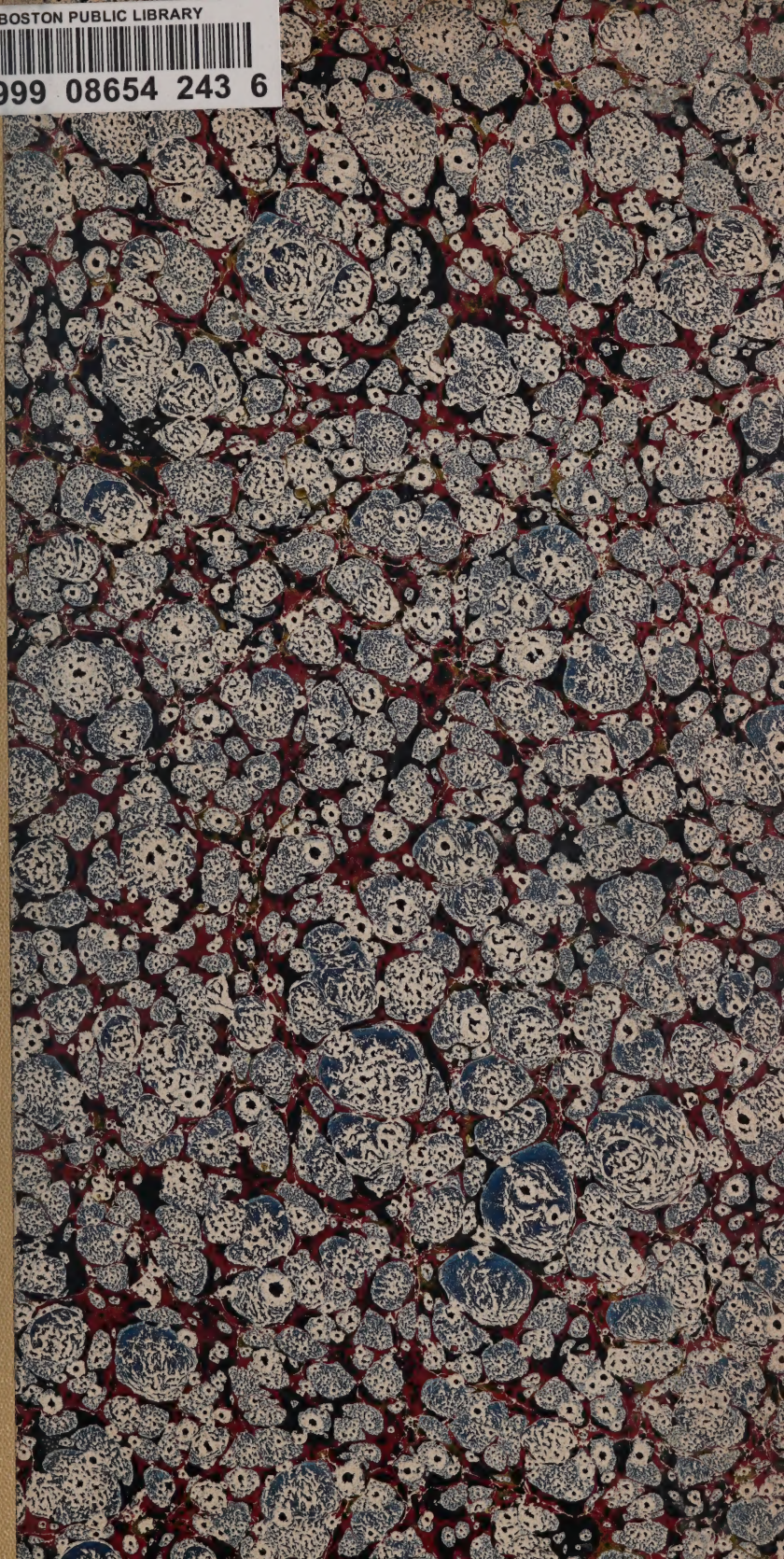


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ADDRESS

TO THE

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PEOPLE OF MASSACHUSETTS,

BY THE

FRIENDS OF TEMPERANCE,

AND OF THE STATUTE OF 1838, 'FOR THE REGULATION OF THE
SALE OF SPIRITUOUS LIQUORS.'

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BOSTON:

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CITY OF BOSTON

Pursuant to notice, the friends of the law of 1838, for the regulation of the sale of ardent spirits, assembled in large numbers at the Masonic Temple, in Boston, on the evening of Tuesday the 25th September.

The Hon. Jonathan Phillips was chosen Moderator, and Messrs. John A. Bolles and Harrison Gray, Secretaries of the meeting.

Edward Brooks, Esq. offered the following preamble and resolutions.

Whereas the use of alcohol as a drink is universally admitted to be injurious to health, and experience has proved that it is equally hurtful to public morals and the peace of society, as it has a direct tendency to excite to acts of violence; to unfit men for the discharge of their duties in the various relations of life; and to promote idleness, pauperism and crime; it is the duty of every well ordered community, by all legal means, to discourage and repress it.

Therefore Resolved, That the various license laws formerly enacted in this Commonwealth, have been productive of incalculable mischief, by expressly authorising the sale of alcohol as a drink, thus lending the sanction of the State to the traffic, and holding it up to the people as a harmless and useful occupation.

Resolved, That it is the right and duty of the Legislature to protect the young and inexperienced from temptation and imposition; to secure peaceable citizens in the enjoyment of good order, and the industrious and sober part of society, from being burdened with the support of the dissolute and worthless.

Resolved, That for these purposes it is essential that the sale of ardent spirits in small quantities, except for medical and mechanical uses, should no longer be protected by public authority, and that the law lately adopted with great unanimity by the Legislature of this Commonwealth, being founded on this principle, recommends itself to the support of the people, and ought not to be repealed.

Resolved, That such being the views of this meeting in regard to the momentous question which now agitates this community, involving deeply, in their opinion, the character and well being of the State; they earnestly call on every good citizen, at least to inform himself upon its merits, before he lends his influence in aid of the strenuous exertions now making to restore to the petty traffic in spirits the sanction of law.

Resolved, That this meeting will cordially co-operate with the friends of temperance and good order in all parts of the Commonwealth, in such measures as may be deemed best calculated to explain and vindicate the principles embodied in the foregoing resolutions.

The resolutions were unanimously passed.

On motion of Mr. Crosby, it was

Resolved, That facts gathered from the official reports of the various boards of direction of the alms houses, houses of industry, and penitentiaries, in this Commonwealth, and the collected experience of wise and good men in every county, town and village, prove that the traffic in ardent spirits is not favorable to the poor, and the ground taken by the enemies of the new law, that it is oppressive to the poor, is as unmerciful as it is false.

On motion of Mr. Amasa Walker, it was

Resolved, That this meeting recommend that memorials be sent in from all parts of the State, to the legislature, at their next session, against any change in the license laws, which will admit the retail traffic in alcoholic drinks.

On motion of Mr. Robert C. Waterston, it was

Resolved, That we view with peculiar satisfaction the praiseworthy example of those persons, who have at any time, and some quite recently, given up the traffic in ardent spirit.

On motion of Mr. Damon, it was

Resolved, That we *try* the new license law, before we *condemn* it.

It was carried by acclamation.

On motion of Mr. Harrison Gray, it was

Resolved, That it is the duty of all good citizens to support the principles of the new license law, for the influence it may have on the legislation of other States.

Dr. Walter Channing moved the appointment of a committee of seven, to draft an Address to the people of this Commonwealth, upon the subject of the license law of 1838, and to print and circulate the same. This motion was carried, and the following gentlemen were chosen a committee for that purpose, viz: Messrs. Jonathan Phillips, Samuel Dorr, John A. Bolles, Edward Brooks, James Savage, T. R. Marvin, Amasa Walker.

On motion of Charles G. Loring, Esq. it was

Resolved, That said committee be directed to prepare a Memorial to the next legislature, praying them to sustain the present law for the regulation of the sale of ardent spirit, or one of equal or greater force, and that said committee cause the same to be circulated throughout the Commonwealth.

On motion of John Tappan, Esq. it was

Voted, That the hearty thanks of this meeting are due to those members of the legislature who voted for the law passed the last session, to regulate the sale of spirituous liquors.

Voted, That the proceedings of this meeting be published.

JONATHAN PHILLIPS, *Chairman.*

JOHN A. BOLLES, }
HARRISON GRAY, } *Secretaries.*

The following Address has been prepared in pursuance of the above resolution of Dr. Channing.

ADDRESS.

MASSACHUSETTS has, in times past, enjoyed the reputation of being the first, or among the first of the associated States, in the introduction of moral and legal reform. Hitherto, as a State, she has done nothing to put in hazard this honorable reputation. We trust that such may ever be the fact.

But circumstances have occurred, which excite our apprehension that efforts will be made in the legislature of next winter, to effect an object, whose accomplishment we should regard as both disastrous and discreditable to the Commonwealth.

We regarded the passage of the law of 1838, for the regulation of the sale of spirituous liquors, as an event highly honorable to our State. The repeal of that law, and the abandonment of its principles, are the events whose occurrence we deprecate as unfortunate and disgraceful.

In the discharge of our duty as the friends of our country, of our race, and of the statute referred to, we feel called upon to lay before our fellow citizens a vindication of that law, and of the doctrine which it declares.

In thus addressing the people, we are constrained by facts which have already occurred, to act upon the defensive, and reply to the arguments and assaults of those who are seeking the repeal of the law.

Of these arguments, the most elaborate are to be found in a document entitled an "Appeal to the good sense of the People of Massachusetts." As that paper is supposed to contain all that can be said in opposition to the law, it demands our special consideration. Its most remarkable features are, its utter want of clearness or method,—its inconsistencies of political doctrine,—its clamorous assertion of some principles, (as for instance, that of free discussion,) which are universally admitted, but which are wholly irrelevant to the real question now before the people,—its support of other principles and propositions which we deem false and absurd,—its professions of benevolence and regard for the welfare of society,—its misunderstanding and misrepresentation of the intent, character, and operation of the law,—its artful appeal to prejudice and passion, interest and appetite, instead of reason and "good sense," and its crafty adaptation to deceive and mislead hasty and unreflecting readers.

An examination of some of the leading doctrines and declarations of the "Appeal," will at once expose their error, and demonstrate the excellence of the law. We trust that a sufficient apology for this controversial form of our Address, will be found in the facts already stated.

The "Appeal" asserts that the law of last winter is framed upon "*a new principle of legislation*," and the "Report" of the Committee from which the "Appeal" proceeds, had before spoken of it as a "*precipitate innovation*." Very little attempt is made to show in what respect these charges are true; but the "Appeal" seems to rely on the assertion that former laws *regulated*, while this *prohibits*; and that now, for the first time, the regulation or prohibition, has reference to *the use to be made* of the purchase. A statement and doctrine like this, it seems to us, could never be advanced by any person acquainted with the legislative history of our Commonwealth.

Does the law of 1838 adopt any "new principle of legislation?"

Reference to the statute books will prove that the principle contained in the law of 1838 has been familiarly known to our license laws, and has formed their basis, for nearly two hundred years; that the right to regulate, has always been understood to include the right to prohibit; and that prohibition has been made, again and again, with express reference to the use of the article purchased.

The principle of legislation uniformly acted on, has been this, *that our legislature are authorized, AND IN DUTY BOUND, to restrain any and all trades which are injurious to the general welfare, and to conform the degree of restraint to the requirements of the public good.*

Before examining the old statutes, let us state the substance of the Act of last winter. Its provisions are few and simple. It forbids the sale of a less quantity than fifteen gallons of spirituous or mixed liquors, except by such persons as may be licensed to sell them to be used in the arts, or for medicinal purposes only. The number of licenses is to be in the ratio of population, and the liquor sold must not be drunk on the premises of the retailer.

The law is therefore an expression of the opinion of the legislature, that the general welfare requires a restraint amounting to prohibition upon the retail trade in spirituous liquors, except for two useful purposes.

Let us turn to pre-existing laws. The earliest known law regulating the sale of intoxicating liquors in the "Colony of Massachusetts Bay," is that of 1645. Occasional amendments, from year to year, brought that statute in 1680, to the form in which we now find it in the Colony and Province Laws, (p. 135.) It *prohibited* the sale of a less quantity than "a quarter cask," by unlicensed persons. It *absolutely prohibited all sales* after 9 o'clock, P. M. It *prohibited* landlords, &c. to suffer excessive drinking on their premises, or to allow any person to sit therein drinking and tippling. It *prohibited all sales* to certain specified classes of persons, who were known to be greatly injured by drinking. And in all these cases, the *use* contemplated by the law, and set forth in its preamble, and which constituted the very essence of the prohibition, was that use which tipplers have always made of intoxicating liquor. Thus every *regulation*, was a *prohibition* as to time, person, place, quantity, mode or use.

In 1672 it was made a penal offence for employers to furnish their workmen, particularly apprentices, with strong drinks, "forasmuch as such a practice of drinking liquors and wine, *tends* much to the rooting young persons in an evil practice, and by degrees to train them up to an habit of excess."

In 1682, a law was passed forbidding the sale of liquor by retail to mariners and sailors, except on a written permit from the master or ship-owner.

In these two statutes we again find prohibition, widely extended, referring to a specific use of the article prohibited, and avowedly intended to check and correct a "*tendency*," all which, according to the "Appeal," is monstrous usurpation, and violation of "homebred and fireside rights." Our forefathers manifestly never anticipated that refined distinction between regulation and prohibition, which the "Appeal" sets up.

The statute of 1695, extended the operation of the law to "strong beer, ale, cider, perry, wine, rum, and other strong liquors and mixed drinks," and that of 1698, prohibited their sale to "any apprentice, servant, or negro," without a special order or allowance from the master.

What ought the "Appeal" to say to such "invidious distinctions?" such indulgence to one class, and odious restraint on another? How might its authors expatiate on the cruelty, wrong and oppression of thus robbing the *poor* apprentice, servant, negro, or sailor, of his "natural right" to a dram, of his "inalienable right" to waste his hard earnings, injure his health, deprave his conscience, inflame his passions, indulge his brutal appetites, and drown his sorrows in the cup of intoxication! Truly the pilgrim fathers and founders of our Commonwealth were as ignorant of sound policy, of "homebred and fireside rights," and of wise legislation, as their successors of 1838!

In 1721, the law committed a further invasion of "sacred and homebred rights," by prohibiting the retail of spirits, &c. *on credit*, beyond the sum of ten shillings. The reason assigned for this act of "despotic" authority, was thus expressed: "for that many persons are so extravagant in their expenses, at taverns and other houses of common entertainment, that it greatly hurts their families, and makes them the *less able to pay and discharge their honest, just debts*."

How must the sensibility of the authors of the "Appeal," be wounded by such glaring legislative usurpation. This direct infringement of the "natural and inalienable rights" of running in debt, and of being trusted, coupled moreover, as it is, with so broad and insulting an insinuation, that a bill for liquor is not "an honest or just debt," must, to these *appellants*, seem the climax of tyranny; and when they are informed that this rule was re-enacted in 1787, and that in 1832, it was so enlarged as to prohibit *all* such credits, they may, perhaps, come to the conclusion, that the legislature of 1838 were not the earliest enactors of "arbitrary laws."

Seven years after the adoption of our present Constitution, a statute was passed, re-enacting nearly all the provisions of former laws, and fixing the minimum quantity that could be sold without license, at twenty-eight gallons.

The statute of 1818, prohibited the sale of liquors to common

drunkards, tipplers, and gamblers; and to persons who so mispend, waste, or lessen their estates, as to expose themselves or their families to want, or the town to the burden of their support, by the use of strong drink—or whose health is thus, *in the opinion of the selectmen*, endangered or injured, and also to any other person whatsoever, “*to or for their use.*”

How perfect is the analogy between this provision and the statute of last winter. The old rule was based on the right and duty of the legislature to provide for the welfare of the people. It authorized the selectmen, as deputies of the General Court, to prohibit the retail of liquors within certain limits, whenever in their opinion the welfare of society required strict prohibition. The new law exercises *directly*, the discretion formerly delegated to the selectmen; and declares that the public prosperity requires a more general prohibition. The legislature now operate immediately, and perform in a single field of action, that which they before did by agents and in divisions. Instead of using the discretion of others, they exercise their own. By the Act of 1838, they assume those facts to be universally true, of which a partial inquiry was formerly made by their subordinates. If the existence of those facts in special cases formed a good reason for special prohibition, then, by parity of reason, would their general existence justify general prohibition.

The Revised Statutes *prohibit* all credits for the retail of liquors, and all sales thereof by common victuallers on Sunday, or after 10 o'clock, P. M., and repeat substantially all the restraints of former laws; and the Act of 1837 forbids all sales of spirit, &c. on the Sabbath, thus depriving innholders of a privilege which they had always enjoyed.

Such is a brief analysis of our license laws, up to the last session of our General Court. The power to grant licenses was always qualified and limited by the requirements of either the “public good,” or the “public convenience,” of which the licensing tribunal was left to judge for itself.

Now we would inquire again, does the Act of '38 differ in principle from former laws?

It forbids a certain trade to unlicensed persons. So did they. It forbids that sale for certain uses, intents and purposes. So did they. It establishes a standard to regulate the number of licenses. So did they. It prohibits in all cases where the legislature thinks prohibition essential to public good. So did they. Of old, to be sure, the legislature judged by deputy, but now by themselves; but is there, in principle, any difference between a judgment of the law, and a judgment of the creatures of the law? Can a legislature confer any power which they do not possess? Where then is the difference?

The new law proceeds on the assumption that dram-selling is universally a great evil, a ruinous trade, a public nuisance. The old laws assumed the fact that the trade was dangerous, that it required rigid restraint, and that the restraint must be in the exact ratio of the public danger. Here is the same principle applied to different degrees of knowledge, different states of evidence in regard to fact. The old law was correct so far as it extended. The new law would not be correct if, under the present condition of knowledge, it went no further than the old.

Enough has been said, we think, to satisfy any candid reader, that the sins of "innovation," novelty of principle, unprecedented infringement of natural right, &c. &c., of which the law is accused, do not justly lie at its door.

The "Appeal" is chiefly occupied by a labored attempt to prove that the new law violates the Constitutions of both the United States and the Commonwealth. To these two questions we therefore invite attention.

Is the law a violation of the Constitution of the United States?

That modesty, which in their "Report" induced the authors of the "Appeal" to decline any decision on the constitutionality of the license laws, was short lived and has passed away. In the "Appeal," the doctrine is boldly advanced, that the law is a violation of the Constitution of the United States, an infringement on Acts of Congress, and a restraint upon a trade authorized by the supreme law of the land.

The constitutional argument is based on the assertion that "Congress has the sole power to regulate commerce," and that "no State can lay a tax or impost on imports or exports." It assumes, therefore, that the license law is a "regulation of commerce" within the meaning of the constitution, and that it is a tax or impost on imports or exports, or both.

These assumptions we shall show to be untrue. But first we will remark upon the loose and unqualified terms in which the "Appeal" lays down the power of Congress to regulate commerce. It is manifestly the intention of the "Appeal," to lead the people into the belief that this power of Congress is unlimited and exclusive, although its writer well knew that this power is limited to commerce with foreign nations, among the several States, and with the Indian tribes,* and is not in its character exclusive, and that the Supreme Court of the United States has thus more than once decided.†

Our license law, in its intent, territorial limits, and subject matter, is strictly internal; relating to trade between citizens of the same State; and of course not within the jurisdiction of Congress.

The fondest advocate of federal authority, never before claimed for Congress the right of interfering in these matters. In this respect, at least, the "Appeal" is original. This monstrous grant of federal power, comes with poor grace from men so shrinkingly sensitive to State usurpation, so nervously apprehensive of State authority. In rushing blindly from the lesser, they throw themselves headlong into the greater danger.

This political inconsistency, betrays the urgent and inconsiderate haste with which the authors of the "Appeal" grasp at and adopt any shadow of argument against the license law, whose operation is so much dreaded.

We will now return to the false assumptions before named.

The license law is not, as the "Appeal" assumes, a regulation

* Art. 1. § 8. United States' Constitution. Gibbons v. Ogden, 9 Wheaton's Reports, 1.

† 2 Peters' United States' Reports, 245.—11 do. 149.

either of foreign commerce, or of commerce between States. It is a regulation of internal police, and is so classified in our Revised Statutes; of trade between citizens of the same State. It may be very properly called a part of our *inspection, health, or quarantine laws*.

Now the constitution and laws of the United States expressly declare, that the inspection, health and quarantine regulations of the States, shall be obeyed by the federal government.*

As a mere police or trade law, it is valid and constitutional, according to the decisions of the United States' Supreme Court, until it actually conflicts with some Act of Congress, passed in the exercise of its just powers.†

No such conflict is pretended by the "Appeal," unless it interferes with the *right of sale*, therein alleged to be a necessary incident to the right of importation. We shall now examine the lawful extent of this *right of sale*. In so doing, we shall show that the license law is not, in the opinion of the Supreme Court, an impost or tax on imports or exports, and of course not liable to the second branch of the objection of the "Appeal."‡

The "Appeal" states the incident right of sale in unmeasured terms, and thus knowingly conveys a false impression of the doctrine established by the Supreme Court. We say *knowingly*, for the writer of the "Appeal" shows that he had examined the decisions of that tribunal, by the garbled and unfair extracts which he makes therefrom.

This whole question is put at rest by the decision of the Supreme Court of the United States in the great case of *Brown v. The State of Maryland*.‡

The Court in that case decided that Congress may authorise the importation of any foreign commodity, and its transportation from State to State, and that incident to the importation is a *qualified* and limited right of sale—not the general and unlimited right of sale, falsely pretended in the "Appeal," but a right qualified by the inspection, quarantine, health and police regulations of the States, limited to the importer, and to the sale by wholesale in the package as imported. They decided that an article ceases to be an "import," in the legal sense, the instant the importer opens the package or bale in which it was imported, or offers it at retail, or sells it in any way, or adopts it into his own private use. They decided that sale by auctioneers, or by pedlars, or at retail, might be taxed, regulated or controlled by the State, at the discretion of its legislature.

And yet this is the judicial opinion delivered by Chief Justice Marshall, which the "Appeal" so quotes, as to leave the impression that it establishes the doctrines of that strange document. What will the people of Massachusetts say, in reply to such an "Appeal" to their good sense—to such a compliment on their knowledge of law, and powers of reflection and observation? What ought they, and all fair and unprejudiced men, to think of a cause which can be defended

* United States' Constitution, Art. 1. § 10. United States' Laws, vol. 2, 345. vol. 3, 126.

† 2 Peters' United States' Reports, 245.—11 do. 149. 9 Wheaton, 1.

‡ 12 Wheaton's United States' Reports, 419.

only by misrepresenting the decisions of the most august judicial tribunals, and by wrongful enlistment of distinguished names, by misquotation and perversion of their genuine sentiments?

We would, in a neighborly and friendly spirit, exhort the framers of the "Appeal," to search these decisions of the Supreme Court which we have referred to, for a more correct understanding alike of constitutional law, and of the duty and authority of State legislatures; so that hereafter, when they behold their State government earnestly laboring within its proper sphere, and by competent means, "to advance the safety, happiness, and prosperity of its people," "to provide precautionary measures against the moral pestilence of paupers, vagabonds and convicts,"*—to prevent crime, by drying up one of its most abundant fountains—to check the headlong sensualist in his ruinous career—to block up with legal impediments the pathway to the poor house, the jail, the gallows and the grave—and to withdraw from an immoral, unholy and corrupting trade, the sacred shield of legislative protection; they may bid that legislature God speed, and do whatever lies in their power to assist its laudable endeavors.

But not content with considering the license law a violation of the constitution of the United States, the authors of the "Appeal" insist that it is an infringement of the State constitution.

For the last six or eight years, the opposers of this law have been uttering this complaint of the old Acts, which tolerated a kind of monopoly. But now the monopoly is ended, and an equal law enacted, they redouble their cry of unconstitutionality, complaining less of the sufferings of the trade, than of the wrongs of the consumer.

It is useless to hope that such constant malcontents can in any way be satisfied. But let us inquire into the soundness of their arguments.

Is the law of 1838 a violation of the Constitution of Massachusetts?

We have shown that the law involves no "new principle of legislation." If, then, it be unconstitutional, so has been every former law regulating the sale of liquors, since our constitution was framed in 1780. We have seen how rigid were the old laws up to the period when our constitution was adopted, and that all their restraints remained in full force for seven years after that event. This last fact shows, that the framers of the constitution did not regard those strict old statutes as in violation thereof, and such a contemporaneous exposition of their character is entitled to great weight. When at last the law was changed, it was not a change of principle, nor a relaxation of former prohibitions. The old doctrine, and the old application of it, were retained.

The constitutional objection, is one of comparatively recent birth. The fact certainly is extraordinary, supposing these laws to be unconstitutional, that nobody before ever dreamed of it; that they should have been patiently and cheerfully borne and sustained for nearly two hundred years; and that for fifty years they have been universally deemed constitutional. The modesty of those who have of

* See the language of the Court in 11 Peters' United States' Reports, 149.

late began to question the law is, therefore, quite remarkable. Yet more surprising is the modesty of the authors of this "Appeal," who still continue the argument, although our Supreme Judicial Court have repeatedly decided that our license laws are constitutional.

It is rather difficult to collect, from the confused and undigested mass of the "Appeal," the arguments intended to apply to this adjudicated point; but they seem to be substantially these, viz.

That the statute of 1838 is unconstitutional, because it makes "an invidious distinction between the rich and the poor," in regard to "the natural right of buying and selling" liquor, whereas the constitution is framed "to provide an equitable mode of making laws," and declares that "all shall be governed by certain laws for the common good," and the right of buying and selling ought to be enjoyed by each citizen "*relative* (!) to his means and ability." The statute is further said to be unconstitutional, because it punishes an act not of itself criminal, on the ground that it may tend to crime; because it is founded on might and not on right; is "a sumptuary law" in "restraint of an appetite"; and is finally a direct infringement of the "right of acquiring, possessing and protecting property."

A candid examination of these arguments will show their futility; while an inspection of the unfair, deceptive, and illogical mode of urging them, will satisfy any one of the feebleness of the cause which demands such advocacy.

Nothing could be more false in fact, than to represent the law as creating "invidious distinctions" between rich and poor, permitting indulgence to the one and punishing it in the other, or as being an injury or oppression to the poor, or to any person coming under its operation. Yet is a very large portion of the "Appeal" composed of declamation upon this false charge.

Does the law intend or create any such distinction between the rich and the poor as is complained of? Is it addressed to the poor? Is it the poor man alone, that buys his daily or his hourly glass of intoxicating liquor? Are all our tipplers and drunkards, who find the means of indulgence in licensed or unlicensed bars, shops, cellars, and caves of pollution, and who procure it in small portions, by the dram, members of the poorer classes of society? *Far from it!* We appeal to every man's experience on this point. The rich, as often as the poor, frequent the "gin palace," the gaudy restaurat, the dram-selling bar. Every lover of strong drink feels alike the temptation arising from the existence, at every corner, and in every street, lane and by-way, of the facilities of indulgence. Men of all classes suffer alike, from the constant allurements of professed "groggeries," whose doors, like those of hell,

"Stand open night and day."

Is a law which is designed to shut up these haunts of universal vice, and restrain all classes alike; whose object is the diminution of a great public and private evil, to be deemed "invidious"? Is it to be denounced as injurious to those upon whom it most directly operates? Such a law, if it exercise restraint on *any* class, is, therefore, and in the exact ratio of its restraining power, a benefit and blessing to that class; and instead of being justly chargeable with oppression towards

those who feel its restraint, might, with greater appearance of justice, be complained of for unkindness, in omitting to guard, protect and restrain those who do not come under its immediate operation.

We challenge any honest man to deny that, in point of fact, the poor have reason to bless and thank this law, and every other legal impediment to the formation of intemperate habits.

We all know how readily men indulge in trifling and petty expenditures, especially in matters of sensual enjoyment, and how universally true it is that even *prudent* men will thus throw away a sixpence every day or half day, without reflection, although they would recoil at the idea of wasting their dollar or two per week, or their twenty, forty, or hundred dollars per year, upon the self same object. The dram-seller knows this infirmity of his fellow men, and he practices upon it and lives by it. He tempts men to the trivial, but constantly recurring expenditure. He pampers the appetite which levies this little tax. He feels the aggregate of petty sums, and fattens on the minute contributions of a thousand daily customers. He knows that many of those customers would desert him at once, were he to exhibit to them the astounding fact, that they individually pay to him scores of dollars every year, or every quarter; he knows that to require of them their quarterly bills in advance, would drive them from his premises to habits of temperance and self-denial.

The law also acts upon a knowledge of this principle, wisely and humanely presenting, to the thoughtless purchaser, the idea of the aggregate quantity which he drinks, and of the total sum that he expends, and prohibiting this petty traffic in drams, not because he cannot buy fifteen gallons at one time, and pay for them also—but because he will not; as a prudent, frugal, economical man, he will not make so foolish an investment, strip himself of so considerable a sum for so paltry a consideration. Be he poor or rich, he will pause long before he will purchase and carry home fifteen gallons of poison, to be placed within reach of his wife and children, and to be prepared for use by his own hand. The very labor of mixing the “julep,” or the “punch,” which are so readily paid for at the “bar,” would, of itself, deter many from the indulgence of “an evil habit of excess.”

The law is intended, without regard to persons, to strike at a common mischief—a mischief which is almost identified with the sale and use of liquor by the glass. If it were to go into full operation and be honestly obeyed, so that the common haunts of the intemperate, whether poor or rich, should be forever shut, there can be no doubt, even in the minds of these appellants, that nine-tenths, at least, of intemperance and its attendant evils, would be banished from society.

Such would be the salutary results of this “invidious” law. Who, then, should complain? Not those who, as the “Appeal” contends, most sensibly feel the law’s restraint; but those, if any, who feel it least; those who are not brought under its shield and guardianship; those whose wealth is thus left to curse them.

But were it true that the law operated differently on different classes of society, owing to their different pecuniary resources, this fact would not prove the law to be unconstitutional. The statute is intended to diminish a great evil. If the General Court have any right to legislate

for the public good, they certainly have the attendant right of determining how far or how much they will legislate. In suppressing a general evil, they may attack it in detail, and by piecemeal, and are not bound to attempt its instant and entire removal. They may adopt partial measures, advancing so far and so fast as they may deem or find advisable, without subjecting themselves to the imputation of injustice or oppression. So also may they impose specific pecuniary penalties upon certain acts declared to be unlawful, although the consequence be, that to the poor man the penalty may amount to a prohibition, while it is no restraint to the rich. Our laws for the preservation of game, and many other statutes, create penalties of this sort; yet he would be deemed a bad logician and a refractory citizen, who should denounce those laws as invidious and unconstitutional, conferring indulgences on one class, and imposing burdens on another. In fact no penalty whatsoever can be devised, except imprisonment for life, or capital punishment, that operates with equal influence on all classes; for the loss of either time or money will fall more lightly upon some than upon others, according to their pecuniary resources and ability.

But it is further complained that the statute is "*uncertain*." This complaint is wholly unfounded.

A law is "*uncertain*," only when it is of doubtful meaning, or of irregular application. No law which clearly and explicitly defines its intent, subject matter, and penalty, is an "*uncertain*" law, in and of itself. It depends on the judicial and executive branches of government, whether or not its administration and application shall be certain.

It is also averred that this statute infringes the constitutional right of enjoying "an equitable mode of making laws." This charge is either unmeaning or untrue.

The "*mode of making laws*" is a matter of political arrangement, fixed by the constitution. In our Commonwealth, it consists in the passage of statutes through both branches of the legislature, and their approval (actual or constructive) by the executive. The laws may be bad, although the "*mode of making*" is faultless; and they may, on the other hand, be wise and equitable, although the "*mode*" of their enactment be inequitable.

Perhaps the authors of the "Appeal" intended to say that the law is itself inequitable. It may be possible for a law to be both constitutional and inequitable, so that the question of equity is totally distinct from that of constitutionality. If, therefore, such were their meaning, it is very inappropriately and absurdly set forth, being wholly irrelevant to the constitutional discussion. But, whatever their meaning, our readers will be satisfied that the assertion is erroneous, before we have finished our examination.

There can be no question in the mind of a candid and unprejudiced man, that "the common good" requires the suppression of "dram-selling." Is it any valid objection to a law intended for that purpose, that "the common good" also requires the suppression of some other evil, against which, as yet, there is no legal provision? If mankind were to remain without any legal restraint, until they could at once adopt a perfect code, they would never know the benefit of legislation.

Every year is signalised by reform and improvement, and will be, to the end of time. And yet, according to the "Appeal," every law is inequitable, so long as there remains any room for improvement.

The sincerity and worth of these complaints of uncertainty and want of equity, may be properly appreciated, when we consider the remedy proposed. Partial restraint is said to be improper, and instead thereof, *total prohibition*, extending over the whole trade in intoxicating liquors, is demanded. Yet the great objection to the statute of last winter, is, that it *prohibits*, instead of regulating; and moreover the "Appeal" declares that total prohibition, the expedient proposed by itself, is unconstitutional. Its reasoning is this:—partial restraint is unjust and inconsistent; total prohibition is unconstitutional; and therefore we cannot bear the one, and will not have the other. This is the policy of the "Appeal,"—an abandonment of the legislation of two hundred years, and a universal deluge of intoxication. We cannot comprehend the assurance which can seek to impose such follies and delusions upon "the good sense of the people of Massachusetts," as rational and honest arguments.

As to the "natural, homebred and fireside rights" of buying and selling. If there be such rights, they are, like other individual rights, controlled by the necessities of the public, so long as we remain members of the body politic. The people are the judges of the common good, of the public necessity. The people speak, act and legislate through their representatives. Whenever those representatives come to the conclusion that dram selling, or any other practice, is a great public mischief, prejudicial to the common good, they have the power, they have the right, and they are in duty bound, to suppress that cause of injury.

It is idle folly, or something worse, therefore, to say that every citizen has the right of dram selling or dram drinking "*relative to his means and ability.*" It may be true that when the law does not interfere, every person has the *power*, (we will not say right,) of making a beast of himself, or of others, in the exact ratio "of his means and ability." But this *power*, may at any session of the legislature, be rendered subordinate to the general welfare of society, by a total or partial prohibition of its exercise; by regulations forbidding its use on the Sabbath day, or after ten o'clock at night, or on any day and at any hour, whatsoever.

As to the law being "founded on *might* and not on *right*," we would only say, that constitutional *might* is political *right*. The power conferred by the constitution, may rightfully be exercised, call it by what name you will. If, in the case under consideration, the constitution has not been violated, the statute is founded upon both might and right, neither of which, without the other, is worth one straw, in a government like ours.

Among the other false doctrines and fallacious arguments of the enemies of the law, is that which asserts the injustice and unconstitutionality of punishing an act because of its evil tendency merely. Now, in political creeds, any action is right or wrong, not because of its intrinsic moral character, but because of its external influence, tendency, or operation on society. "An ounce of prevention is worth a pound of cure" in government, as certainly as in medicine. We

would, on this point, recall to recollection the memorable words of the United States' Supreme Court. "It is not only the right, but the bounden and solemn duty, of a State, to advance the safety, happiness and prosperity of its people, and to provide for its general welfare, by any and every act of legislation which it may deem conducive to those ends.—We think it as competent and as necessary for a State to provide *precautionary* measures against the moral pestilence of *paupers*, *vagabonds*, and *possibly convicts*, as it is to guard against physical pestilence." As we proceed in our argument it will be shown that a vast proportion of our penal laws, are and always have been, intended to prevent acts, innocent in themselves, but of injurious tendency. We pass now to other points.

The "Appeal" declares the license law to be a "*sumptuary*" law, "because a restraint upon appetite," and therefore unconstitutional. This new definition of "sumptuary" laws, is incorrect; but upon that blunder we have no time to waste. We would only say in reply to the charge, that laws passed by our legislature, in the exercise of their just powers, may be stigmatised as "sumptuary laws," or by any other odious name; but if so passed, they are constitutional, and may well be expected to survive the clamor of opposition. The law forbidding either sex to wear the distinctive dress of the other, is also a "sumptuary" law. It is, moreover, a law which "prohibits and punishes as a crime, an act not of itself immoral, on the ground of its evil tendency merely."

Again the "Appeal" regards the license law as "a violation of the right of acquiring, possessing and protecting property." So are all laws in regulation of offensive or unhealthy trades, and which forbid the sale of unwholesome provisions. So are all imposts, taxes and fines. Regarded in one light, all these laws are infringements of personal freedom. Considered in another, they are the safety, the shield and bulwark of civilized society. There are some persons who will complain of all such regulations. He whose livelihood is derived from the sale of drams to habitual tipplers, will, of course, when moved by self-interest, regard as a mere violation of his right of acquiring property, any law in restraint of his trade. He whose morbid appetite leads him two or three times a day to the tipping shop, will, under the influence of his appetite, consider any law which interferes with that indulgence, a violation of his right of using property and "enjoying the blessings of life." So the common drunkard, tippler, gambler, or spendthrift, who is posted by the selectmen, and forbidden the use of intoxicating liquor, imagines his rights are taken away by impertinent legislation.

If the license law of last winter be unconstitutional, so, on the same principle, by the same argument, are all our license laws; for the power to regulate, involves the power to prohibit—and the same authority which by one state of facts is justified in establishing moderate restraint, is by another, justified in the enactment of total prohibition. Such is the teaching of the highest legal authority.

"It is obvious," said Chief Justice Marshall, "that the same power which imposes a light duty, can impose a very heavy one, one which amounts to a prohibition. Questions of power" (constitutional power,) "do not depend on the degree to which it may be exercised. If it

may be exercised at all, it must be exercised at the will of those in whose hands it is placed."

The very authors of the "Appeal," admit the right of regulation, but deny the right of prohibition: an absurdity which no argument can make respectable.

If the constitutionality of laws regulating or restraining the sale of ardent spirits be denied, on the same principle we must deny the constitutionality of all those restraints and regulations on business, by which the cupidity of dishonest men is hedged in and restrained from working general mischief.

It is a fair and reasonable rule, of both law and criticism, that men must intend the natural consequences of their voluntary acts, and of their deliberately avowed doctrines. Judging by this rule, the intention of the authors of the "Appeal," is to overthrow all laws of a restrictive influence on trade. No other construction can be put upon what they say. Their doctrine is no more applicable to one article of merchandise than another, to one kind of trade than another, to one mode or degree of restraint than another.

The repeal of the law of 1838 would, on the principle of the authors of the "Appeal," be but one little step in the march of reform. The Sunday Act of '37 would fall next; then the twenty-eight gallon Act of '35, the ten gallon Act of '32, nay the entire body of restraining statutes which have for nearly two hundred years opposed their barriers to the ravages of intemperance, all would perish and disappear from the statute book. Nor could these "*wholesale*" reformers stop there. Having thus annihilated one set of offensive statutes, they would, consistently, proceed to the onslaught upon all other legal impediments by which their "appetites" for wealth are obstructed and opposed.

The *lottery law*, which shuts up one familiar source of profit, cuts off one large and important branch of business, would be repealed. For is it not a law in restraint of trade? does it not prohibit and punish as a crime, an act of itself innocent, merely on account of its tendency? is it not an infringement of the natural right of buying and of selling? does not its enactment assert a power over private trades and pursuits, whose future exercise may be dangerous? may not the legislature forbid the sale of "*grease*," if they can of lottery tickets? or may they not make this forbidden sale a capital offence? Let the authors of the "Appeal" answer those questions, and then tell us how they can avoid attempting to overthrow the lottery law, and to restore the "homebred and fireside" right of tempting fortune, of studying the doctrine of chances, in lotteries?

The *Sunday law*, by which the observance of the Sabbath is regulated, comes within the vortex of this false doctrine. Is not this statute an infringement of natural right, and a great commercial impediment? does it not cut off, 'at one fell swoop,' a seventh portion of the business and profits of the mercantile and laboring classes, thus favoring the rich; whose money lent is drawing interest on all days alike? Has not Congress the sole power to regulate trade? If the State government may prohibit trade and commerce on Sunday, may they not, also, whenever they please, on Monday? If we submit tamely to this legislative filching away of one day, will not our fanatical and hot headed legislators be encouraged to carry their prohibition

through the entire week, until no working day is left, so that the poor will be starved into necessary slavery to the rich, who alone could live under such a law? Is not this an assertion of "a power whose abuse is to be dreaded"?

So, also, of our "*inspection laws*," which undertake to dictate how this, that, or the other commodity shall be manufactured, packed, branded, cut up, weighed, salted, measured and managed,—as though, forsooth, the citizen were not his own master, and his own best judge of prudence, profit and propriety. These laws cramp and fetter the exporter in every joint and limb, at every turn, through the whole alphabet of exportable articles, from ale and beef, down to salt and wood. Is it not a flagrant violation of personal right, of the "right of acquiring, possessing and protecting property," and "an invidious distinction between the rich and the poor," for the law to forbid the exportation of pork in less quantities than half-barrels? Is not this an unequal and inequitable law, which thus cuts off from a foreign market the poor man who has but half a hog to export, and must therefore submit to the extortion of rich monopolists at home, and take any price they choose to give, merely because he has not pork enough to fill a half-barrel? What intrinsic wrong is there in shipping a quarter cask of pork or beef, and why should this harmless act be "prohibited and punished as a crime"? Does not this "invidious" regulation "assert a power whose abuse is to be dreaded"? Some future house of representatives will attempt to prohibit the exportation of particular portions of the swine, and revive the old Mohammedan controversy; and then the debate will be betwixt the "head" party and the "tail" party; the question will be "fore-quarters" or "hind-quarters"; some will stake their political existence on the head,

"While others at that doctrine rail,
And piously prefer the tail!"

Not to pursue our illustrations any farther, it may be truly said, that all laws whatsoever, prohibitory or regulative, which directly or indirectly influence trade, or the absolute freedom of action, must fall beneath the argument of the "Appeal," if that argument be sound: and that not merely the traffic in ardent spirits, but all other kinds and modes of business, would be left to the uncontrolled direction of any and all persons who might choose to engage therein, without regard to the public welfare and the general good.

We must still doubt whether any of the advocates of the "Appeal," will have the hardihood to prosecute its doctrines to their full legitimate extent. In fact that document, with an apparent consciousness of its awkward predicament, in several passages attempts to escape therefrom, by raising an unfounded distinction between the power to regulate and the power to prohibit—a fallacy which has already been exposed.

In its violent affection for the natural rights of individuals, and for the interests of particular trades or classes, the "Appeal" seems to forget that "the existence and protection of the body politic" are one great end of government; that "laws are intended for the common good;" that political organization is intended "for the protection and safety, prosperity and happiness of the people," and "not for

the private interest of any one man, family, or class of men ;" that "a constant adherence to the fundamental principles of temperance, industry and frugality, and a constant observance of them," is what, by the constitution, the people "have a right to require of their lawgivers and magistrates," and finally, that our General Court are authorised "to make all manner of wholesome laws, either with penalties or without, as they shall judge to be for the good and welfare of the Commonwealth," and that their authority, except where expressly limited, is co-extensive with that of the people whom they represent.

Such is the answer to some of the most plausible objections to the law of 1838. We will now allude to some of the mistakes and misstatements of the "Appeal" which have been widely circulated.

"Omnipotence of the Law."

The fairness of that document is illustrated by its perversion of the doctrines of the "Reply," a paper some time since published by friends of the law. The Reply, for example, says, that "the legislative power is conferred in general terms, and is *omnipotent, except in those particular cases where it is controlled.*" This qualified remark, which contains, in language readily understood, a true statement of the rule of construing the constitutional powers of the legislature, is by the "Appeal" perverted into a ridiculous claim of arbitrary and uncontrolled power. The authors of the "Reply," (says the "Appeal,") content themselves with claiming *might* rather than right. The doctrine is denounced as "extraordinary," and the inquiry is made, "is it an answer to a strong and rational argument against the enactment of a prohibitory law, to say, 'the legislature is omnipotent, and can do as it pleases?'" and "does this sort of *might* constitute the *right* on which the friends of the license law are willing to go before the people?" The "Appeal" further says, "it should alarm every freeman, to find such doctrines of power maintained by men of standing in society."

It is enough for us to say, that no man of standing ever has maintained such doctrines; that no such doctrine is contained in the "Reply;" and that *no lover of truth could pretend so to understand what is contained in the "Reply."* A more barefaced perversion of plain truths plainly spoken, was never attempted. The doctrine of the "Reply" is true and sound, and no lawyer, judge or statesman ever advanced any other, in regard to the measure and extent of legislative power under our State constitution. All sober men admit, that except where limited by the provisions and principles of the constitution, the power conferred on the legislature is supreme.

Immorality of the trade in Intoxication.

Another perversion of the words of the "Reply," by the authors of the "Appeal," is found in what is said of *the morality of the traffic in the elements of intoxication.* The signers of the "Reply," in the exercise of a delicacy which proves to have been misplaced, said they would not venture to pronounce this traffic immoral, or to inquire into the motives of those who carry it on. This forbearance, is by the

“Appeal” construed, or rather misconstrued, into an admission that the traffic is a moral one.

Evidence of a weight and clearness beyond the reach of discredit or of doubt, has been collected and almost universally diffused, to demonstrate the fact, that the use of intoxicating liquors as articles of drink, is always an injury, and that their use is productive, not only of no benefit, but of a vast proportion of all the losses, disturbances, diseases, pauperism and crime which are suffered by society. In view of facts like these, no man can entertain for one moment a doubt that the traffic is immoral, unless, like the silversmiths of Ephesus, who made shrines for Diana, and resisted the preaching of Paul, he be blinded by the force of habit, or the delusions of self interest.

Such are our views in regard to the question of morality, and such must be the views of all who seek the highest happiness and best good of their fellow men.

The immorality of the traffic in spirit not needful to justify legal restraint or prohibition.

But after all, in a political point of view, this question is of small moment; because the legislature are not restricted in their regulating and prohibitory powers, to acts in themselves immoral. There are a thousand acts and practices, innocent of themselves, but which are wisely restrained or rendered penal, because inconvenient or injurious, or because tending to the inconvenience or injury of society. Our game laws, the laws of public and private nuisance, of lotteries, our inspection laws, the law of the road, and a hundred others, furnish illustrations of this fact, and answers to the absurd doctrine of the “Appeal,” that no act, not criminal of itself, can justly be forbidden or punished, because of its evil tendency. We have basis enough for the law to discourage dramshops, in the fact that the public good, in its broad and proper sense, requires their suppression. Such being the fact, it is not merely the right, but the bounden duty of the legislature to do all in its power to suppress them.

The “Appeal” (p. 6.) contends that intoxication is the sole evil aimed at by the law, and advances the strange doctrine, that as “intoxication depends on men’s appetites, its abolition must depend on moral conviction and the good sense of the people.”

It is not so;—the fact stated is not true; the doctrine thus taught is erroneous. Drunkenness is only one of the thousand evils which are occasioned by dram shops. The calenders of our courts, the records of our jails and alms houses, and the testimony of every physician, contain the exhibition of those evils. Nay, the record may be found in broken constitutions and broken hearts, in the degradation of immortal souls, in the desolation of the domestic hearth and the social altar, in the tears of deserted families, in the rags of the beggar, in the blood of a hundred yearly victims.

Is it true that the law must not interfere, to forbid or to punish an act which depends on men’s appetites? Shall not the law forbid murder, and cannibalism, or traffic in slaves, because those acts depend upon the appetite for blood and cruelty and sordid gain? Monstrous

absurdity! too monstrous to bear the examination even of the most abandoned victim of appetite! Were this principle of the "Appeal" to be adopted by the citizens of this Commonwealth, there would be an instant repeal of every criminal and penal statute, and the appetites and passions of men—revenge, and lust, anger and avarice—which under the most favorable auspices require the curb of legal restraint, but which, when inflamed and aggravated by intemperance, set at defiance the vengeance of law, and the thunderbolts of Deity, would be let loose upon the miserable family of man. We know not what system of metaphysics may be current with the contrivers of this "Appeal," nor what code of morals,—but for ourselves, we have always entertained the belief, that some base passion or appetite was at the foundation of every wrongful act.

Common Good.

The "Appeal" contains some extraordinary notions of the meaning of the words "*common good*." Our idea of this phrase of the constitution has been, that it meant "the highest good of the greatest number." The "Appeal" attaches to it no such meaning—but evidently regards that phrase as signifying, with respect to the dealer, his right to sell rum, and with regard to the tippler, his right to drink. Pecuniary interest is the "*common good*" of the one, and sensual indulgence, of the other.

The "Appeal" speaks of certain persons complaining that "*their common good*" is injured, and of certain others as maintaining that "*their common good*" is wronged, (p. 3.) This seems to us an utter perversion of both language and thought. "*Common good*" is fixed, independent, stable—the same to one man that it is to every other man, and therein differing from the various kinds of partial good specified in the constitution—the interest of an individual, a family, or a class of men.

The "*common good*," is something vastly superior to even *the pecuniary good*, or to the *sensual enjoyment* of the whole community; and may sometimes be apparently opposed to the one, and directly at war with the other. How groveling must be his views of the character, the dignity, the great welfare of man, who views him as a mere accumulator of gold, and a mere slave of his appetites. How narrow must be his view of the end and aim of civil society, of the vast and complex machinery of the body politic, who regards it as intended merely to facilitate acquisition, and to protect animal indulgences. The "*good sense of the people of Massachusetts*," their self-respect, their admiration for that which is in man noble, generous, elevated and divine, their love of order, and their high regard for government as an instrument for the production and defence of the *highest good* of the governed, will prevent their adoption of these sordid, selfish and grovelling doctrines.

In expressing our opinions and feelings in answer to the "Appeal," we are compelled to use plain and strong language.

We have seen how falsely it quotes judicial decisions and the opinions of eminent jurists,—how absurdly it pretends to fear State

authority, while advocating the most comprehensive federal power,—how artfully it misrepresents the license law as invidious, and makes clamorous appeals to prejudice and appetite, instead of “good sense,”—how unfounded is its assertion that the law of 1838 is based on a new principle of legislation,—how grossly it misconstrues the language and sentiments of the “Reply.” We might, in pursuance of the painful duty of exposing its errors, allude to its unfair attempt, by mis-quotation, to cast ridicule on one of the signers of the “Reply,” and to its libellous exposition of the motives and principles, the end and aim, for which and upon which our fathers commenced and conducted the war of our independence.

We might comment upon the attitude taken in opposition to the law, by the authors of the “Report” and “Appeal,” who proclaim the statute to be a law which cannot be enforced, and then set themselves up as leaders of those who will not allow it to be enforced, and make loud and inflammatory appeals to passion and prejudice. We might draw a parallel between this conduct and that which resulted in “the Whisky Rebellion,” and exhibit the contrast between such conduct, and that fair and free and peaceable discussion of public measures, which is at all times proper. We might point out the shallow pretence of fearing, because of the passage of this law, that the General Court of our Commonwealth, annually chosen by the people, will be led into the folly and injustice of causeless and unreasonable interference with private rights;—as though such a fear was warranted by their adoption of a law to suppress an immoral and corrupting trade, which cannot *rightfully* be carried on.

We have already shown, and might exhibit more fully, the inconsistency between the professions and the principles of the “Appeal,” in that it pretends hostility against none of the license laws except that of last winter, and yet assails that law with objections which apply with equal or greater force to all former license laws or restraining statutes whatsoever.

But we will confine ourselves to an exposure of the folly committed by the writers of the “Appeal,” in pretending to be influenced in their procedure, by a strong regard for the cause of temperance, and for the welfare of the poor.

Are they, as they say in their “Report,” the sincere friends of temperance? Then must they have already observed, that the nurseries of intemperance, the hot beds of drunkenness, where, in nine cases out of ten, the appetite and habit of intemperate drinking are formed, are our taverns, and victualling cellars, and dram shops. Then must they feel an earnest, ardent, active desire, to shut up these sinks of moral corruption, to seal up these poison fountains. Then must they rejoice to see, to support, and to enforce, a law which is intended to suppress dram shops. They will be the last men to decry it, to oppose it, to impede its operation, or procure its repeal. Feeling the utter impotence of public indignation peaceably to destroy a pernicious but lucrative trade, and to repress a corrupt but powerful appetite, they will hail the new statute, the arm and authority of law, as their ark, and rally around it and go forth under its protection, to their struggle with the cupidity and lusts of depraved men. Is such their conduct?

Again.—Are they the true friends of the poor man, in this matter?

An affection so unsolicited, so suddenly and actively professed and displayed, might, of itself, excite our suspicion. But when we remember that nearly all the want and pauperism in the land, with their attendant horrors and sufferings, are occasioned by the use of those very elements whose sale gives to many of these new philanthropists their wealth; when we recollect that every wholesale trader in rum is, inevitably, a wholesale manufacturer of drunkards and of paupers, of diseases and of crimes; that the dram shop, which such merchants supply and sustain, is the source of nearly every misfortune or mischief which afflicts society; we cannot but liken this false love to that which animated the heart of the wolf, as he gazed on the lamb which was drinking by his side! Why is the poor man unable to purchase the fifteen gallons specified by the law? It is rum that has reduced him thus low in pecuniary ability. Rum, manufactured at your distilleries, and sold at your stores, has made him poor. You are the causes of that poverty which you now convert into an argument against the law. Was this your benevolence, your regard for those whose self-appointed advocates you now are? And now that the law steps in to the relief of your victims, and endeavors to shield them from further misfortune and degradation, to check and impede the frequent indulgence of a habit which wastes their money, injures their health, shortens life, debases the intellect, and does them infinite injury in all the conditions and relations of life—your benevolence leads you to oppose the law, to vindicate the tippler in his ruinous habits, and assert the monstrous doctrine, that the liberty of drinking and the freedom of the dram shop, are his dearest “homebred and fireside rights!” No man who regards his reputation for veracity would now deny that the real interest, best welfare, and highest happiness of every poor man in Massachusetts, would be promoted by excluding him forever from access to dram shops, with their fatal allurements and facilities to intemperance. What, then, is the worth of this philanthropy, by which the door of iniquity is kept open and its paths made straight. But for the trade in spirits, “*Every able-bodied man in the Commonwealth would have abundant means to purchase either fifteen or fifty gallons.*” The traffic, we admit, keeps large numbers so poor that they may now find it difficult to raise the purchase money. It is very kind, therefore, for their Boston friends to gather to their aid in this their extremity. But if they will keep away, these very men, who are said to be too poor to purchase fifteen gallons of new rum, will, in a short time, have abundant means, but they will not then use them to purchase new rum! The truth is, there should be no such class as *poor men* in this Commonwealth, and but for intemperance, there would not be.” How admirably consistent is the conduct of benevolent traders, who having made their friends poor, do all in their power to keep them so. How enlightened and elevated are their ideas of the rights and privileges, the interest and welfare of man, who place the right of dram drinking at the head of the catalogue!

If, then, the statute of 1838 be founded upon well settled and familiar principles; if it be consistent with our several constitutions and frames of government; if it be just, equitable and equal; and, finally, if

it be both intended and adapted to remove a great and alarming evil, and to effect a most desirable reform, why should it be repealed? Such we believe to be the character of that law, and believing this, we feel assured that the great body of our fellow citizens will come forward to its defence and support.

JONATHAN PHILLIPS.

SAMUEL DORR.

JOHN A. BOLLES.

EDWARD BROOKS.

JAMES SAVAGE.

T. R. MARVIN.

AMASA WALKER.

Boston, Oct. 15, 1838.

